REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The July 13, 2005 Office Action and the Examiner's comments have been carefully considered. In response, the Abstract and claims are amended, claims are added, and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

PRIOR ART REJECTION

In the Office Action, claims 1-4 are rejected under 35 USC 102(b) as being anticipated by USP 5,790,935 (Payton).

The present claimed invention as defined by claim 1 is directed to a system for the distribution of audio and video files. The system includes a central database (1) which stores audio or video files, local processing means for processing and playing of the audio or video files, a transmission network for the transmission of the audio or video files from the central database to the local processing means and a processor (4) for selecting a collection of files from the database by means of a selection algorithm and storing that selection in a selection

file (5) as well as for transferring, via the transmission network to the local processing means of a subscriber, replicas of both the selection file (5') and the selected files (1') themselves. The local processing means playing the selected files via playing means (6) under control of the selection file.

In accordance with the present claimed invention as defined by claim 1, selected files are played via playing means (6) under control of the selection file. The files are initially selected via a processor (4). It is determined via the selection file which files should be played. Also, in the case that there are several selection files, it is the selection file that determines which files should be played, i.e., the local selection device selects a selection file and under the control of the selected selection file it is determined which files should be played (see description page 5, lines 26-33).

As stated above, the Examiner cites Payton as anticipating claims 1-4. In rejecting claim 1, the Examiner refers to col. 5, lines 55-67 and col. 6, lines 1-50 of Payton. Referring to this section of Payton, the Examiner contends that Payton teaches "as well as for transferring, via the transmission network to the local processing means of a subscriber, replicas of both the selection files and the selected files themselves, the local selection means being able to play the selected files via playing

means under control of the selection files." (See item 4, third line from the bottom of page 2 of the Office Action to page 4, line 1 of the Office Action.)

However, in Payton the subscriber determines which item should be played by selecting one of the displayed items (col. 4, lines 57-58 of Payton). Unlike Payton, according to claim 1 the file to be played is determined under control of the selection file, i.e., the subscriber is not able to determine an item to be played by selecting a specific item. Therefore, claim 1 is not anticipated by Payton.

Moreover, it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention taught by Payton to arrive at the present claimed invention.

That is, the present claimed invention as defined by claim 1 is patentable over Payton and the other references of record because Payton and the other references of record do not disclose, teach or suggest:

> a processor for selecting a collection of files from the database by means of a selection algorithm and storing that selection in a selection file, as well as for transferring, via a transmission network to the local processing means of a subscriber, replicas of both the selection file and the selected files themselves, the local processing means playing the selected files via playing means under control of the selection file (see claim 1, lines 8 - 16).

Claims 2-4 are either directly or indirectly dependent on claim 1 and are patentable over the references of record in view of their dependence on claim 1 and because the references do not disclose, teach or suggest each of the limitations set forth in claims 2-4.

In view of all of the foregoing, claims 1-4 are patentable under 35 USC 102 as well as 35 USC 103.

CLAIM AMENDMENTS

Claims 1-4 are amended to place the claims in better form for consideration by the Examiner and to more clearly comply with the requirements of 35 USC 112. The amendments to claims 1-4 are not related to the patentability of the claims.

NEW CLAIMS

New claims 5-8 are added to the application. Claims 5-8 correspond to claims 1-4 but are in non-means-plus-function format. Claims 5-8 are patentable over the cited references for reasons, *inter alia*, set forth above in connection with claims 1-4.

ABSTRACT

The Abstract is amended to remove reference numerals and reference to Figure 2.

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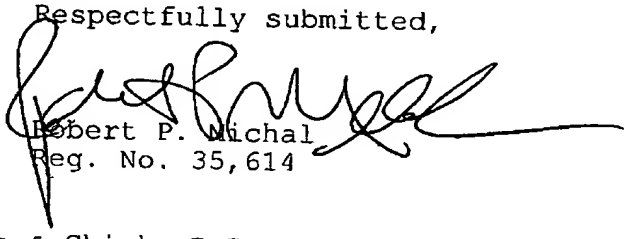
Entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



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Encl.: Substitute Abstract of the Disclosure